



**Before The  
State Of Wisconsin  
DIVISION OF HEARINGS AND APPEALS**

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In the Matter of the Denial of a Salvage License  
Level 4 by the Department of Transportation to  
A-1 Junk Cars

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Case No. TR-14-0028

**FINAL DECISION**

On September 29, 2014, the Division of Hearing and Appeals received an appeal from Dennis A. Kurasz, on behalf of A-1 Junk Cars, to review the Department of Transportation's denial of an application for Type 4 Motor Vehicle Salvage Dealer License. Pursuant to due notice, the Division of Hearings and Appeals held a hearing on November 7, 2014, in Waukesha, Wisconsin. Mark F. Kaiser, Administrative Law Judge, presided. The parties filed written closing argument after the hearing. The last submission was received on November 19, 2014.

In accordance with Wis. Stat. §§ 227.47 and 227.53(1)(c), the PARTIES to this proceeding are certified as follows:

Dennis Kurasz  
621 South 92<sup>nd</sup> Street, #3  
West Allis, WI 53214

Wisconsin Department of Transportation, by

Attorney Daniel Graff  
Department of Transportation  
P. O. Box 7910  
Madison, WI 53707-7910

The Administrative Law Judge issued a Proposed Decision in this matter on December 19, 2014. No comments on the Proposed Decision were received. The Proposed Decision is adopted as the final decision in this matter.

## Issues

The grounds for denial of A-1 Junk Cars' application for a Type 4 Motor Vehicle Salvage Dealer License are set forth in the denial letter dated September 11, 2014. The first issue is whether the grounds are true. The Department of Transportation has the burden to show the grounds are true. If the grounds are true, the next issue is whether the denial is reasonable. A-1 Junk Cars has the burden to show the denial is unreasonable.

## Findings of Fact

The Administrator finds:

1. Dennis Kurasz (Kurasz) operates a business named A-1 Junk Cars in the Milwaukee area. A-1 Junk Cars is primarily involved in the business of buying salvage motor vehicles, towing them to scrap metal processors, and selling them. A-1 Junk Cars also buys and sell other scrap metal.
2. Alicia Gilmore (Gilmore), an investigator for the Division of Motor Vehicle Dealer Section of the Wisconsin Department of Transportation, encountered Dennis Kurasz at LKQ Great Lakes Corp., on August 14, 2013. LKQ Great Lakes Corp. is a Type 1 salvage yard. Gilmore observed Kurasz tow a motor vehicle to LKQ Great Lakes Corp., intending to sell it as a junk vehicle.
3. At the time Gilmore observed him, Kurasz was driving a tow truck with a sign in the rear window soliciting the purchase of junk cars. Kurasz told Gilmore that he was soliciting and selling junk vehicles under the retail motor vehicle dealer license of Mondovi Tractor and Auto Sales, a retail motor vehicle dealer located in Mondovi, Wisconsin. Gilmore advised Kurasz that the activity he was engaged in required a Type 4 Motor Vehicle Salvage Dealer License. On September 27, 2013, Gilmore followed up this conversation with a warning letter to Kurasz (exh. R-1). The warning letter reiterated that Wis. Stat. § 218.205(1) requires anyone engaged in the business of buying and selling junk motor vehicle vehicles to have a Type 4 Motor Vehicle Salvage Dealer License and directed Kurasz to "refrain from operating as a motor vehicle salvage dealer without a license."
4. On March 17, 2014, Kurasz applied to the Department of Transportation (Department) for a Type 4 Motor Vehicle Salvage Dealer License under the trade name of A-1 Junk Cars (exh. R-2 and testimony of Gilmore<sup>1</sup>). The application listed a business address of 1313 West Burleigh Street in Milwaukee for A-1 Junk Cars. As part of the processing of the application, Gilmore attempted to schedule an inspection of the listed business facility. When Gilmore contacted Kurasz to schedule the inspection, he informed her that he no longer had access to the facility. Because she was unable to inspect his business facilities, Gilmore could

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<sup>1</sup> The signature on the application is dated January 2, 2014, and it contains several stamped dates. Gilmore testified that there were problems with the application and it had to be resubmitted. March 17, 2014, was the date she received the application for processing.

not process Kurasz's application. Gilmore advised Kurasz to submit a new application listing the address for the business facility that he would be using.

5. On June 4, 2014, Adrian Pichler, the owner of Mondovi Tractor Repair and Auto Sales, faxed a written statement to Brandon Wilbik, a motor vehicle dealer investigator, informing the Department that he was cancelling the salesperson license and motor vehicle buyer license that Kurasz held under his dealership (exh. R-4).

6. On July 16, 2014, Kurasz filed a new application for a Type 4 Motor Vehicle Salvage Dealer License under the trade name of A-1 Junk Cars. The new application listed a business address of 8544 West National Avenue, #2, West Allis (exh. R-3).

7. Throughout the time he was waiting for the Department to process his application for a Type 4 Motor Vehicle Salvage Dealer License Kurasz continued to advertise that A-1 Junk Cars was buying junk motor vehicles (see exh. R-6, which are assorted internet advertisements linked to Kurasz).<sup>2</sup> An employee of LKQ Great Lakes Corp., informed Gilmore that Kurasz sold at least 300 junk motor vehicles to LKQ Great Lakes Corp., since August 14, 2013 (exh. R-11). Gilmore obtained records for thirty junk motor vehicles that Kurasz bought and sold to LKQ Great Lakes Corp., between June 5 and June 16, 2014 (exhs. R-7 and R-8) and for 65 junk motor vehicles that Kurasz bought and sold to LKQ Great Lakes Corp between June 24 and July 29, 2014 (exhs. R-9 and R-10).

8. On August 27, 2014, Kurasz was stopped by Milwaukee Police Department Officer Jeffrey Theile. Officer Theile stopped Kurasz for scrapping a motor vehicle at Miller Compressing, a scrap metal processor, without the required signage on his tow truck. During the stop, Kurasz told Officer Theile that he was acting under the license of Mondovi Tractor Repair and Auto Sales. Officer Theile spoke with Adrian Pichler by telephone and was informed that Kurasz did not have permission to conduct any activities under the license of Mondovi Tractor Repair and Auto Sales. Officer Theile obtained a spread sheet of salvage motor vehicles that Kurasz sold to Miller Compressing from January 1 to September 4, 2014 (exh. R-17). Kurasz sold 83 salvage motor vehicles to Miller Compressing after June 4, 2014, the date Adrian Pichler submitted a written statement cancelling any licenses Kurasz held under the retail motor vehicle dealer license of Mondovi Tractor Repair and Auto Sales. Officer Theile also obtained a spreadsheet from Auto and Scrap, another scrap metal processor, showing that Kurasz junked at least 35 vehicles with that company since June 4, 2014. Officer Theile subsequently issued Kurasz forty citations for engaging in the business of a salvage dealer without a license.

9. Kurasz testified that he has not sold any junk vehicles since the August 27<sup>th</sup> stop and the Department did not present any evidence of salvage dealer activities by Kurasz after August 27, 2014 (other than the internet advertising).

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<sup>2</sup> In his post-hearing brief, the Department's attorney asserts that Kurasz has current internet advertising soliciting the purchase of junk motor vehicles.

10. By letter dated September 11, 2014, the Department denied Kurasz's application for a Type 4 salvage dealer license (exh. R-13). The stated grounds for the denial are:

- 1) Kurasz "solicited the purchase of junk vehicles, purchased junk vehicles, and resold the vehicles for wrecking, processing, scrapping, recycling or dismantling" without a Type 4 salvage dealer license.
- 2) When Kurasz purchased motor vehicles without a Type 4 salvage dealer license he "failed to obtain a new certificate of title in [his] name prior to selling the vehicles."
- 3) Kurasz "failed to inform the [Department] of the junking of vehicles" and "failed to return the certificates of titles to the Department."
- 4) Kurasz "offered certificates of titles for sale."

#### Discussion

Dennis Kurasz operated a business of buying and selling scrap metal including junk motor vehicles until at least August 27, 2014. Kurasz advertised the buying of junk motor vehicles portion of his business as A-1 Junk Cars in the Milwaukee area. Kurasz testified that he believed he was able to buy and sell junk motor vehicles under the retail motor vehicle license of a previous employer, Mondovi Tractor Repair and Auto Sales. This claim is dubious since there does not appear to be any ongoing business connection between Kurasz and Mondovi Tractor Repair and Auto Sales. Additionally, Mondovi Tractor Repair and Auto Sales does not hold a salvage dealer license. Kurasz could not have lawfully engaged in buying and selling junk motor vehicles under Mondovi Tractor Repair and Auto Sales' dealer license. However, if one gives Kurasz the benefit of the doubt and accepts this testimony as a misunderstanding on the part of Kurasz, any misunderstanding was eliminated on August 14, 2013, when he was advised by Alicia Gilmore that his activities required a Type 4 Motor Vehicle Salvage Dealer License. This warning was repeated in a letter dated September 27, 2013.

Despite these warnings Kurasz continued to buy and sell junk motor vehicles without a license. Additionally, on June 4, 2014, Adrian Pichler faxed a written statement to the Department cancelling the licenses Kurasz held under Mondovi Tractor Repair and Auto Sales' dealer license. Therefore, even if Kurasz sincerely believed he could engage in salvage activities as an employee of Mondovi Tractor Repair and Auto Sales, Kurasz unequivocally knew as of June 4, 2014, that any licenses he had held under Mondovi Tractor Repair and Auto Sales were cancelled. There is no plausible explanation under which Kurasz could have reasonably thought the motor vehicle salvage activities he was engaged in were lawful.

Alternatively, Kurasz blamed his unlawful activity on the Department's slowness in processing his applications for a Type 4 Motor Vehicle Salvage Dealer License. The Department was unable to process the first application Kurasz submitted because he had lost access to the premises he listed as his business facility. Kurasz did not show any undue delay on

the part of the Department. However, even if there had been a delay on the part of the Department, the delay would not justify Kurasz's unlawful activities. The Department has proven that Kurasz knowingly engaged in the business of a motor vehicle salvage dealer without a license in violation of Wis. Stat. § 218.205(1).

The Department alleged three other grounds for its denial of Kurasz's application for a Type 4 salvage dealer license. One of the grounds is that he failed to inform the Department that the vehicles he had purchased were junked and failed to return the certificates of title to the Department. Kurasz produced a stack of motor vehicle titles at the hearing and claimed that no one told him what he was supposed to do with them. Based on this admission, it is undisputable that Kurasz did not return the certificate of titles for the junked vehicles to the Department as required by Wis. Admin Code § Trans 136.02(1). With respect to Kurasz's defense that no one told him that he was required to return the titles to the Department, the response to this defense is that one of the reasons an individual is required to obtain a license to engage in the business of a salvage dealer is to give the Department an opportunity to educate the person regarding the legal requirements of the business.

A third ground alleged by the Department is that Kurasz failed to title the junk vehicles he purchased in his name. If he had been a licensed salvaged dealer, Kurasz would not have been required to obtain certificates of title in his name. Accordingly, this allegation is simply another way of saying that Kurasz was engaged in the business of a motor vehicle salvage dealer without a license. The Department's fourth allegation is that Kurasz offered certificates of title for sale in violation of Wis. Stat. § 342.32(2). The only evidence to support this allegation was a written statement from another individual selling junk vehicles to LKQ Great Lakes Corp. This statement is hearsay. Although hearsay is admissible in an administrative proceeding, it cannot be the sole basis for making a finding. Accordingly, the Department did not satisfy its burden of proof with respect to this allegation.

The Department has proven that three of the four grounds cited in its denial of Kurasz's application for a Type 4 Salvage dealer license are true. The three grounds that have been proven each involve actions on the part of Kurasz that are violations of state statutes or administrative rules. As such they support a determination that Kurasz is unfit to be licensed as a salvage dealer. Kurasz's only attempt to show that the denial was unreasonable was to allege that another individual who engaged in similar activities was subsequently licensed. The Department refuted the allegation that Kurasz was treated differently by showing the other individual ceased his unlicensed salvage dealer activities when warned by the Department and promptly applied for a license. Kurasz continued acting as a salvage dealer for over a year after being warned.

Kurasz claimed he thought he was lawfully operating as a salvage dealer under the license of Mondovi Tractor Repair and Auto Sales. Even if one gives him the benefit of the doubt and accepts this claim as accurate, Kurasz continued his unlawful activities long after he was warned that he needed a salvage dealer license to buy and sell junk motor vehicles and knew that Adrian Pichler had cancelled the licenses Kurasz held under Mondovi Tractor Repair and Auto Sales. Kurasz's continued activities as an unlicensed salvage dealer and his retention of certificates of titles for vehicles that he had sold as junk in violation Wisconsin statutes evince a

careless disregard of the statutes and rules regulating the activities of a salvage dealer and render him unfit to hold such a license. The Department's denial of Kurasz's application for a type 4 Salvage Dealer License must be affirmed.

### Conclusions of Law

The Administrator concludes:

1. Dennis Kurasz's business activities involving buying junk motor vehicles and selling them to scrap metal processors and recyclers constitutes acting as a Type 4 Motor Vehicle Salvage Dealer. Dennis Kurasz is not licensed as a Type 4 Motor Vehicle Salvage Dealer. Accordingly his activities constitute a violation of Wis. Stat. § 218.205(1), which provides:

No person may carry on or conduct the business of a motor vehicle salvage dealer unless licensed to do so by the department. Any person violating this section may be required to forfeit not less than \$500 nor more than \$5,000 for the first offense and may be fined not less than \$500 nor more than \$5,000 or imprisoned for not more than 60 days or both for a second or subsequent conviction within 5 years.

2. Alternatively, if Dennis Kurasz's activities of buying and selling motor vehicles are determined to not be those of a Type 4 Motor Vehicle Salvage Dealer then he is required by Wis. Stat. §§ 342.065(1)(a) or (b) to have the certificate of titles for the vehicles he purchased transferred to his name. Wis. Stat. § 342.065(1)(a) provides:

A purchaser of a salvage vehicle that is not currently titled as a salvage vehicle shall, promptly after delivery to him or her of the salvage vehicle, apply for a salvage vehicle certificate of title by submitting to the department the properly assigned certificate of title under s. 342.15(1)(c) or other evidence of ownership, the applicant's statement that the vehicle is a salvage vehicle, an application for a salvage certificate of title and the required fee.

Wis. Stat. § 342.065(1)(b) provides:

The owner of a salvage vehicle that is not currently titled as a salvage vehicle shall promptly apply for a salvage vehicle certificate of title by submitting to the department the certificate of title for the vehicle or other evidence of ownership, the applicant's statement that the vehicle is a salvage vehicle, an application for a salvage certificate of title and the required fee. This paragraph does not apply to a salvage vehicle that is purchased by a salvage vehicle purchaser subject to the requirements of par. (a).

3. Dennis Kurasz produced at the hearing a thick stack of motor vehicle certificate of titles. He testified that he has retained the certificates of titles for all the junk motor vehicles he has purchased. Wis. Admin Code § Trans 136.02(1) requires licensed salvage dealers to mail

the certificates of titles to the Department within thirty days of acquiring the junk vehicle. Dennis Kurasz's retention of the certificates of title for the motor vehicles he sold as junk violates Wis. Admin Code § Trans 136.02(1).

4. Dennis Kurasz's engaging in the business of a salvage dealer without a license in violation of Wis. Stat. § 218.205(1) despite repeated warnings from the Department and his failure to submit the certificate of titles for the junked motor vehicles he acquired to the Department as required by Wis. Admin Code § Trans 136.02(1) constitutes a willful failure to comply with a provision of Wis. Stat. Chap. 218, Subchapter VII and an administrative rule promulgated under that section. Pursuant to Wis. Stat. § 218.22(3)(d) these actions on the part of Dennis Kurasz are sufficient grounds for the denial of his application for a Type 4 Motor Vehicle Salvage Dealer License. Dennis Kurasz has not shown that the denial of his application is unreasonable.

5. Pursuant to Wis. Stat. §§ 218.22(4)(a) and 227.43(1)(bg), the Division of Hearings and Appeals has the authority to issue the following order.

#### Order

The Administrator orders:

The denial by the Wisconsin Department of Transportation of the application for a Type 4 Salvage Dealer License by Dennis Kurasz, d/b/a A-1 Junk Cars is AFFIRMED.

Dated at Madison, Wisconsin on January 15, 2015.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
5005 University Avenue, Suite 201  
Madison, Wisconsin 53705  
Telephone: (608) 266-7709  
FAX: (608) 264-9885

By: \_\_\_\_\_  
Brian Hayes  
Administrator

## **NOTICE**

Set out below is a list of alternative methods available to persons who may wish to obtain review of the attached decision of the Division. This notice is provided to insure compliance with Wis. Stat. § 227.48 and sets out the rights of any party to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Division of Hearings and Appeals a written petition for rehearing pursuant to Wis. Stat. § 227.49. Rehearing may only be granted for those reasons set out in Wis. Stat. § 227.49(3). A petition under this section is not a prerequisite for judicial review under Wis. Stat. §§ 227.52 and 227.53.

2. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefore in accordance with the provisions of Wis. Stat. §§ 227.52 and 227.53. Said petition must be filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (1) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Any petition for judicial review shall name the Division of Hearings and Appeals as the respondent. The Division of Hearings and Appeals shall be served with a copy of the petition either personally or by certified mail. The address for service is:

DIVISION OF HEARINGS AND APPEALS  
5005 University Avenue, Suite 201  
Madison, Wisconsin 53705-5400

Persons desiring to file for judicial review are advised to closely examine all provisions of Wis. Stat. § 227.52 and 227.53 to insure strict compliance with all its requirements.